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Legislative Update

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The statehouse has been anything but quiet since the November 7th election results were announced. While committee action was sparse, lots of conversations were occurring on both sides of the aisle. Committee hearings and house and senate sessions are going to go full tilt before lawmakers leave Columbus for the holidays. The calendar for the week before Thanksgiving is full, and it is likely early December will be busy as well. With the March Primary Election looming on the horizon, lawmakers will be splitting time between their home districts (possibly running for election if they face a primary opponent) and the capital making it hard to predict how much work will be done early in 2024. One crucial bill that is sure to generate lots of interest is the Capital Budget, a bricks and mortar spending package that local communities are eager to tap into, particularly because the pot of money is larger than ever this session. This bill, along with statewide Issues 1 and 2, and SB 83 dealing with controversial higher education reforms are discussed below.

Issue Updates

Both statewide issues on the November ballot were approved by significant margins; however, there was little time for the winners to celebrate. Almost immediately republican leadership began signaling plans to continue the fight around Issue 1.

Issue 1: Senate President Matt Huffman (Lima) described the vote on the reproductive rights amendment as “just the beginning of a revolving door of ballot campaigns to repeal or replace the newly enacted amendment to the Ohio Constitution”. House Speaker Jason Stephens (Kitts Hill) promised to explore “multiple paths” to protect innocent lives. “This is not the end of the conversation,” he promised. “One approach is to keep the most stringent restrictions possible under the amendment”.

A contingent of 27 members of the Ohio House of Representatives issued a statement on behalf of the right to life caucus that said they were elected to protect the most vulnerable in the state and would continue that work. The following elected officials signed the letter:

Representatives **Jena Powell** (Arcanum) caucus chair; **Sarah Fowler Arthur** (Ashtabula); **Tim Barhorst** (Fort Loramie); **Monica Robb Blasdel** (Columbiana County); **Bill Dean** (Xenia); **Dave Dobos** (Columbus); **Thad Claggett** (Licking County); **Gary Click** (Vickery); **Ron Ferguson** (Wintersville); **Jennifer Gross** (West Chester); **Thomas Hall** (Madison Township); **Brett Hillyer** (Uhrichsville); **Marilyn John** (Richland County); **Darrell Kick** (Loudonville); **Angela King** (Celina); **Roy Klopfenstein** (Haviland); **Beth Lear** (Galena); **Susan Manchester** (Waynesfield); **Derek Merrin** (Monclova); **Riordan McClain** (Upper Sandusky); **Melanie Miller** (City of Ashtabula);

Tracy Richardson (Marysville); **Jean Schmidt** (Loveland); **Dick Stein** (Norwalk); **Josh Williams** (Sylvania); **Scott Wiggam** (Wayne County); and **Bernard Willis** (Springfield).

Other republican lawmakers are less eager to endorse a return to the ballot with another abortion-related amendment. Sen. Andy Brenner (R-Delaware) urged the caucus to discuss the matter. His district approved Issue 1 59%-41%. Rep. Adam Bird (R-Cincinnati) also called for discussion. "I think the correct response is introspection. We need to talk to each other. We need to talk about why we lost," he cautioned. Rep. Sara Carruthers (R-Hamilton) said, "To do anything as far as Issue 1 kind of looks like we're not listening to the people to be honest. That's not going to be a popular thing for me to say, but the fact of the matter is I think we could have avoided this at the onset" by taking a more moderate position. "We always listen to the loudest voices in the room, and usually they're the extremes on both sides. We've got to stop doing that," she added. (Source: Gongwer News Service Ohio (11/8/23). *Abortion rights advocates, opponents consider next steps.*)

Issue 1 becomes part of the Ohio Constitution December 7th 30 days after election day.

Several days following the election, in anticipation of the House Speaker's strategy, Reps. Anita Somani (D-Dublin) and Beth Liston (D-Dublin) (both physicians) announced they are going to introduce the Reproductive Care Act that removes current laws enacted over the years that impede abortions. Examples they cited include transfer agreements for abortion providers that require them to have hospital privileges within a certain distance from an abortion clinic and the 24-hour waiting period for having an abortion. There are no plans to restrict or eliminate parental consent. The bill would add to Ohio law protections for reproductive health information, prevent discrimination by employers due to reproductive decisions, and create protections for providers against prosecution for reproductive health care. Rep. Rachel Baker (D-Cincinnati) a registered nurse researcher joined her physician colleagues in a statement released supporting the proposed bill. Minority leader Rep. Allison Russo (D-Upper Arlington) also expressed support. Unless the restrictions are repealed in a single bill, each of them would have to be taken to court one by one. There have been 31 restrictions adopted since 2011. Given the make-up of the current Ohio House, it is highly unlikely the Somani/Liston bill will be enacted.

Passage of **Issue 2** made Ohio the 24th state to legalize recreational use of marijuana. It was presented as a legislative initiative not a constitutional amendment, which means the language approved by voters will be subject to revisions within the General Assembly. Like all other laws the language will be found in the Ohio Revised Code. Like Issue 1, Issue 2 becomes effective December 7th so if lawmakers want to alter it, they must act quickly to avoid confusion by having one version of the law effective in December and another version effective shortly thereafter. Currently, the senate has two sessions scheduled before December 7th, and the house has four sessions on its calendar. That can easily change, however.

Gov. DeWine has encouraged legislators to take a cautious, common-sense approach to whatever provisions are adopted moving forward. He is focusing his attention on measures to

address children's safety and public smoking, but unlike his response to Issue 1, he noted that lawmakers must "respect Ohioans who voted for legalizing recreational marijuana". Legislators have signaled they want to look at tax rates, revenue distributions, and THC content caps, but they too won't push for repeal. DeWine expects to meet with house and senate leadership this week.

Under the law enacted by voters, one cannot use marijuana in "public areas" but it allows property owners and any public place to decide for themselves whether to accommodate marijuana use. Smoking marijuana will be regulated pursuant to Ohio's smoking ban. (Source: BeMiller, H. (11/12/23) *DeWine: Change pot law while also respecting voters*. Columbus Dispatch.)

Capital Budget—the back story.

The Ohio House issued guidance to members regarding how to submit project funding proposals for inclusion in the 2024 capital budget bill. According to the suggested schedule, interested parties should submit their proposals by December 18th and members must in turn submit them to the republican caucus finance director by January 10th. One day later, the Ohio Senate, provided its members a different timeline, with the process beginning April 8th and the deadline for members to submit proposals to the Finance chairman's office being April 22nd. (Sen Matt Dolan (R-Chagrin Falls) is the Finance committee chair. He is in the middle of a primary campaign to be the republican candidate to oppose Sen Sherrod Brown's re-election to the U.S. Senate next November and will likely be focused on the outcome of that crucial primary race.)

The senate's timetable pushes the political maneuvering around this bill until after the March 19th primary which may signal whether House Speaker Jason Stephens will be likely to maintain his house leadership position in the next General Assembly. It is no secret that Stephens will be challenged for the speakership by current senate president Matt Huffman who is seeking election to the house because term limits prevent him running for a third consecutive senate term.

House Finance Committee Chair Rep. Jay Edwards (R-Nelsonville) recognized the politics being played, but he wants to engage lawmakers on both sides of the aisle and their constituents. He indicated he will be reaching out to his colleagues with the goal of keeping politics out of it.

Lots of money is at stake. The previous capital budget bill enacted by the 134th General Assembly included \$3.5 billion in capital appropriations and another \$1.2 billion in operational funds for "onshoring" initiatives and other spending by the departments of Development and Transportation. This year the bill could see \$700 million in General Revenue Funds appropriated along with the \$3 billion for debt-backed projects. The extra cash is a result of an unusually flush bottom-line in the state's treasury. The bond-backed portion of the capital bill can be used only for construction; however, extra funds can be allotted without restrictions except they cannot be used for ongoing operations costs or pilot programs which include private development incentives.

A small portion of allocations through the capital bills have been dedicated to community projects originating outside state agencies that benefit the state. This year the One Time Strategic Community Investment Fund (OTSCIF--created in the state budget bill HB 33) makes two pots of money available, one of which may include projects not usually allowable under the debt funding limitation this one time. Funds for these projects must not be the only funding source the projects have attracted, and they must be able to show community buy-in and viability. According to Rep. Edwards, there will be separate legislation for the OTSCIF decided concurrently with the capital budget. "Members should submit projects and then discuss with his staff which pot of money makes the most sense," he said. The \$700 million will be split evenly between the house and senate.

Senate Finance Committee chair said the senate will be looking for projects that are:

- "One time in nature & not require additional state assistance for completion;
- Meaningful and transformational investments that positively affect the lives of Ohio citizens;
- Not pilot projects;
- Not for operational or salary costs;
- Not creating small pots of money for general purposes to be distributed through a program later.
- Landbanks are not eligible for funding."

(Source: Gongwer News Service (11/2/23) *Speaker race, huge pot of extra money adds intrigue to capital budget planning.*)

SB 83—Higher Education Reform

The House Higher Education Committee adopted a substitute version of the senate-passed bill that eliminated the prohibition against strikes by public college and university employees. The elimination did not convince opponents to come on board with the proposal, however. The bill still stifles classroom discussions and will deter the best and brightest students from attending Ohio institutions of higher education they predicted.

The bill defines "*controversial beliefs or policies* as any belief or policy that is the subject of political controversy, including issues such as climate policies, electoral policies, foreign policy, diversity, equity, and inclusion programs, immigration policy, marriage, or abortion." The bias tenure evaluations remain in the bill, but the percentage that student evaluations would go toward teaching evaluations dropped from 50% to 25%. Students are required to take a three-credit hour class on American History, but may be exempted if they took advanced placement U.S. Government and Politics. The course must also require the students to read the U.S. Constitution, the Declaration of Independence, the Emancipation Proclamation, part of the Federalist Papers, and the Gettysburg Address.

A new provision called "retrenchment" continues to concern opponents. Retrenchment is defined in the bill as, "a process by which a state institution reduces programs or services, thus resulting in a temporary suspension or permanent separation of one or more institution faculty, to account for a reduction in student population or overall funding, a change to institutional

missions or programs, or other fiscal pressures or emergencies facing the institution.” The bill’s sponsor, Sen. Jerry Cirino (R-Kirtland), said the definition “is purposefully broad so university leaders can respond to a variety of potentially unforeseen circumstances”. He does not believe it will lead to unfair targeting of people. The revised version of the bill allows workers to bargain collectively over retrenchment policies but only regarding faculty with 30-35 years of service in a public retirement system at the time of the retrenchment decision.

Other changes in the substitute bill would:

- Reduce term lengths for university trustees from 9 to 6 years;
- Eliminate redundant reporting requirements;
- Allow institutions to issue a statement that it is committed to not requiring, favoring, disfavoring, or prohibiting speech or lawful assembly instead of mandating that language be added to the schools’ mission statement;
- Clarify that colleges and universities can continue to lobby lawmakers on budgetary and policy issues;
- Require schools to report mandatory diversity training needed to comply with federal laws or secure grants instead of requiring them to seek preemptive approval from the state;
- Mandate institutions notify the Department of Higher Education of any partnerships with an academic or research entity in China instead of requiring them to receive approval from the state.

(Sources: Gongwer News Service (11/1/23) *Elimination of strike ban among higher ed bill changes*. Henry, M. (11/6/23) *Sen. Cirino introduced another substitute bill for Senate Bill 83 last week in the Ohio House Higher Education Committee*. Ohio Capital Journal.)

HJR 4—Face masks—The resolution, proposing an amendment to the Ohio Constitution, sponsored by Rep. Scott Wiggam (R-Wooster) received its first hearing before the House Public Health Policy Committee. The resolution would prohibit individuals from being compelled to wear a mask or other facial covering in a place of public accommodation. In his sponsor testimony, Wiggam said the resolution gives citizens a “voice on the issue of mandatory face coverings in places of public accommodation, where public services are rendered, including public and private schools.” Physician members of the committee Reps. Beth Liston (D-Dublin) and Anita Somani (D-Dublin) challenged the sponsor’s assertion asking why he didn’t include other articles of clothing such as “no shirt, no shoes, no services.” He responded he did not believe that prohibition infringed on people’s liberty. Liston described it as “tying the hands of future public health policy”. Rep. Soman noted that physicians did not initially wear surgical masks in the operating room but began to do so when it was discovered they prevent infection. The language does not prevent anyone from wearing a mask in surgery & does not prevent anyone from wearing a mask if they choose to counter Wiggam. (Source: Gongwer News Service (11/1/23) *House committee hearings-public health policy*.)

Board of Nursing new appointee—The Senate Health Committee will consider the appointment of Scott M. Wesbecher LPN to the Ohio Board of Nursing for a term beginning September 1, 2023, and ending 12/31/2026. It appears from the Board’s licensure verification site that the

Wesbecher has applied to be licensed as a registered nurse, but that application had not been completed as of November 11th.

The Senate Health Committee may take a vote on **SB 81** sponsored by Sen. Mark Romanchuk (R-Mansfield). The bill authorizes APRNs (other than CRNAs) to sign documents related to hospital patient admission, treatment, and discharge and to amend pending changes to 4723.431 so that change continues to be effective September 30, 2024 and thereafter.